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10/802,465

03/17/2004

Anthony M. Passalaqua

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09/08/2004

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EXAMINER

POLYZOS, FAYE S

ART UNIT

PAPER NUMBER

2878

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,465

Applicant(s)

PASSALAUQUA, ANTHONY M.

Examiner

Faye Polyzos

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/17/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-8 and 15-18, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 3 and 15, the examiner notes the claims include a limitation of a means for preventing detection of radiation associated with a third location. The examiner notes however that through the claims dependencies on claims one and fourteen, the method and apparatus include a limitation of an aperture through which radiation associated with the first and second locations passes. Such limitation suggests that the second locations recited in claim 1 corresponds to a non-aperture location associated with the prevention member; but claim 3 and 15 also seem to refer to a third location as being the non-aperture location. As such, the relative nature of these second and third locations is unclear.

Regarding claims 4-8 and 16-18 are rejected on the basis of their dependency.

Note: Due the considerable speculation and uncertainty regarding the proper interpretation of claims 3-8 and 15-17, no prior art rejections are being made at this time. As stated in *In re Steele*, 305 F.2d 859, 134 USPQ 292 (CCPA 1962), a rejection under 35 U.S.C. 103 should not be based on

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considerable speculation about the meaning of terms employed in a claim or assumptions that must be made as to the scope of the claims. See MPEP 2173.06.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-2, 9-14 and 19-22 are rejected under 35 U.S.C. 102(b) as being anticipated by *Shahar et al* (US 5,847,398).

Regarding claim 1, *Shahar* discloses a method of creating an image of a radiation source (object) (11) comprising: detecting radiation associated with a first location (12) of the radiation source; processing data corresponding to the radiation associated with the first location to provide a first value (col. 7, lines 45-52); employing the first value to generate a first portion of the image associated with the first location (col. 7, lines 53-54); detecting (24) radiation associated with a second location (13) of the radiation source; processing data corresponding to the radiation associated with the second location to provide a second value (col. 7, lines 45-52); and employing the second value to generate a second portion of the image associated with the second location (col. 7, lines 53-54) (See generally Fig. 1A – 1B and col. 11, lines 19-29 and 52-56).

Regarding claim 2, *Shahar* discloses detecting radiation associated with a first location (12) and a second location (13), of the radiation source (11) having a sized that is smaller than the resolution of the detector (col. 6, lines 17-26 and col. 14, lines 12-16).

Regarding claim 9, *Shahar* discloses providing a member (16) for preventing radiation associated with a third location of the radiation source (11) from being detected between the radiation source (11) and a detector (17) for detecting radiation having first (18) and second (19) apertures spaced from each other through which radiation associated with the first (12) and second (13) locations passes (See Fig. 1A).

Regarding claim 10, *Shahar* discloses simultaneously detecting radiation associated with the first and second locations (See Generally Fig. 1)

Regarding claims 11 and 12, *Shahar* discloses summing values of a distribution of data corresponding to the radiation associated with the first and second location (12)(13) to provide the first and second value (col. 17, lines 29-31).

Regarding claim 13, *Shahar* discloses, a system for creating an image of a radiation source comprising an integration process of integrating data values, interpreted as an aggregator, for aggregating data corresponding to radiation associated with a first and second location (12)(13) of the radiation source (11) to provide a first and second value (18)(19) and a mapping system for mapping the first and second values (18)(19) to the first and second portions of the image associated with the first and second locations (col. 7, lines 53-54).

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Regarding claim 14, *Shahar* discloses a detector (17) for detecting radiation associated with the first (12) and second (13) locations of the radiation source (11) (See Fig. 1A and 1B and col. 11, lines 22-26).

Regarding claim 19, *Shahar* discloses providing a member for preventing radiation associated with a third location of the radiation source (11) from being detected between the radiation source (11) and a detector (17) for detecting radiation having first (18) and second (19) apertures spaced from each other through which radiation associated with the first (12) and second (13) locations passes (See Fig. 1A).

Regarding claim 20, *Shahar* discloses the first and second apertures (18)(19) have a size smaller than the resolution of the detector (col. 6, lines 17-26 and col. 14, lines 12-16).

Regarding claims 21 and 22, *Shahar* discloses means for moving the member and the detector relative to each other and moving the member and the radiation source relative to each other (col. 15, lines 14-26).

Conclusion


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Faye Polyzos whose telephone number is 571-272-2447. The examiner can normally be reached on Monday thru Friday from 7:30 AM to 4:00 PM..

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Porta can be reached on 571-272-2444. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FP



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